08-150

NOV 5 2008

No. _____

IN THE

SUPREME COURT OF THE

UNITED STATES

REGINA CASH,

Petitioner

v.

NADA RETIREMENT ADMINISTRATORS, INC.,
Dba NADART,

Respondent.

One Petition for a Rehearing to The United States Court Of Appeals For the Sixth Circuit

PETITION FOR REHEARING

REGINA CASH
Petitioner Pro Se
1595 Patrick Mill Place
Buford, Georgia 30518
770-831-7511

QUESTION PRESENTED FOR REVIEW

Was Petitioner, as a claimant to her deceased father's 410(k) plan, entitled as a matter of law under ERISA to present her evidence of forgery and evidence of Respondent's failure to follow its own contractual obligations regarding determination of beneficiaries to the finder of fact below?

OPINIONS BELOW

The decision of the United States Court of Appeals for the Sixth Circuit is unreported and reproduced in the Appendix.

The decision of the United States District Court of the Western District of Tennessee is also unreported and reproduced in the Appendix.

JURISDICTION

The Court of Appeals' Order was filed on March 13, 2008. Federal court jurisdiction arises under ERISA.

STATEMENT OF THE CASE

Petitioner filed this action in the United States District Court for the Western district of Tennessee under the Employee Retirement Income Security Act of 1974 (ERISA), seeking to recover the proceeds of a 401(k) plan from the Defendant/ Respondent NADA Retirement Administrators in this Petition. These proceeds were improperly distributed through the Probate Court of Shelby County Tennessee. First, to an illegitimate child that has to this day still not been legitimated through DNA, second, the beneficiary form that was presented was not the beneficiary form required by the owner of the account (NADART) and in addition there was no account number to identify the account on this document and lastly the document contained a superimposed signature of the decedent, wherein the Petitioner was denied the opportunity to properly present proof of in the lower court. Probate Court of Shelby County Tennessee moved to distribute the proceeds of the 401(k) plan based solely on the fraudulent document without properly hearing disputing testimony or evidence against this document.

The United States District Court dismissed the claims of all plaintiffs for lack of subject matter jurisdiction, and the Petitioner appealed to the United States Court of Appeals for the Sixth Circuit. The Court of Appeals affirmed the decision of the United States District Court, and this Petition followed.

ARGUMENT

1. **According to the Respondent's own procedures for proper disbursement of proceeds, each participant should execute a form furnished by the Plan Originator or Plan Administrator designating a beneficiary or beneficiaries.**

Petitioner comes before this Honorable court and pleads for a rehearing according to the new evidence that is being presented. We are presenting new evidence from a highly qualified, well known and respected forensic document examiner expert, Thomas W. Vastrick, directly disputing and declaring that the beneficiary form used for the distribution of the proceeds from the Estate of Alfred Cash, Jr. was undisputedly fraudulent. Thomas W. Vastrick attested under oath through an affidavit concluded that Alfred Cash, Jr. as represented by the submitted known specimens, did not sign the Cash signature entry on the questioned document. Petitioner was denied the opportunity to present any information in the lower court. Petitioner did due

diligence by securing an expert witness that was available and ready to testify at the hearing that determined the distribution of the proceeds and was denied the opportunity. The use of the known fraudulent beneficiary form presented to the court by the defendants directly violated their own contract that governs their plan when determining the distribution of proceeds to an entitled beneficiary. All the elements that constitute the definition of fraud against another were committed by Defendants when they knowingly participated in such an act by allowing this fraudulent document to solely dictate distribution of proceeds without any consideration for all entitled beneficiaries. Petitioner was directly affected by such acts when all entitled parties were denied the right to their inheritance through the denial of their full and fair opportunity to dispute the beneficiary form that was presented by Defendants.

REASONS FOR GRANTING THE WRIT

Petitioner sought to present evidence below that the proceeds of the 401(k) plan had been distributed pursuant to a document that had been fraudulently altered, and that the proceeds had been distributed in violation of Respondent's own contractual obligations. Petitioner had never been given the opportunity to present this evidence.

If there is not better protection in the courts for 401(k) plans, then everyone's plan is in jeopardy. We are pleading with the esteemed Honorable Justices to grant a rehearing on this case to show big corporations that little people do count and have a voice in America. What good are laws that are on the books if no one is going to enforce them? We do not need more laws we only need the ones in place enforced. If all corporations decide to go against their governing plan how are the American citizens going to be protected or their assets that they invest. This is not a little man's issue it affects us all it is an American issue.

CONCLUSION

For these reasons, Petitioner respectfully requests that the United States Supreme Court grant her Petition for a Writ of Certiorari.

Dated: November 3rd, 2008.
REGINA CASH

By _____
Regina Cash
Petitioner Pro Se
1595 Patrick Mill Place
Buford, Georgia 30518
770-831-7511

App 1

AFFIDAVIT OF
THOMAS W. VASTRICK

State of FLORIDA
County of ORANGE

THOMAS W. VASTRICK being first duly sworn and under oath deposes and testifies as follows:

1. I am of legal age and I am competent to testify to the conclusions stated herein.

2. I am a forensic document examiner in private practice with offices in the greater Memphis, TN and Orlando, FL areas.

3. I have been a forensic document examiner for over 29 years. I received my training from the U.S. Postal Inspection Service Crime Laboratories through a full-time, in-residence, two-year training program. I am certified through testing by the American Board of Forensic Document Examiners. I have written and published numerous original research papers. I am a member of the American Society of Questioned Document Examiners, the Questioned Document Section of the American Academy of Forensic Science, and the Southeastern Association of Forensic Document Examiners. My curriculum vitae is attached.

BEST AVAILABLE COPY

App 2

4. I was requested to examine signatures in the name of Alfred Cash, Jr. on a copy of one Schilling Motors, Inc. Profit Sharing Plan Designation of Beneficiary dated January 2, 1990. For comparison purposes I was supplied certain documents containing the purported genuine signature specimens of Alfred Cash, Jr. as follows 1) a copy of one Policy Manual Statement dated January 2, 1990; 2) one original 1998 Form W-4 dated March 4, 1998; 3) one original correspondence regarding staff meeting attendance (undated); 4) one original Performance Agreement for August; 5) one original Performance Agreement for October, 1997; 6) copy of one Schilling Enterprises Applicant's Authorization for Alcohol and Drug Testing dated December 28, 1989; 7) copy of one Tennessee Operator License; 8) copy of one Membership and Record Change Application dated September 18, 1991; 9) copy of the signature page of one checklist dated January 4, 1991; 10) copy of the signature page of one application dated April , 1996; 11) copy of one Dental Care Plus application dated December 9, 1991; 12) copy of one Tennessee Driver License; 13) one original 1999 Form W-4 dated March 19, 1999; 14) one original 1997 Form W-4 dated April 16, 1997; 15) copy of one 1996 Form W-4 dated April 5, 1996; and 16) copy of one 1995 Form W-4 dated February 13, 1995.

6. Based on the comparative examination utilizing published standard methodologies, it was concluded that Alfred Cash, Jr., as represented by the submitted known specimens listed above, did not sign the Cash signature entry on the questioned document.

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Member:
American Society of Questioned Document Examiners

American Academy of Forensic Sciences
Southeastern Association of Forensic Document Examiners

Certified:
American Board of Forensic Document Examiners

E-MAIL
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Thomas W. Vastrick

Forensic Document Examiner

CURRICULUM VITAE

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6025 Stage Rd. Suite 42-309
Memphis, TN 38134
(901) 383-9282 (Memphis area)
(800) 544-0004 (Toll Free in U.S.)
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380 S. State Rd 434
Suite 1004-132
Altamonte Springs, FL 32714
(407) 234-3219 (Orlando area)
(800) 544-0004 (Toll Free in U.S.)
FAX (407) 657-0930

1. Education and Training

Bachelor of Science in Forensic Science from California State University at Sacramento, 1977.

Two year, full-time training program with the U.S. Postal Inspection Service Headquarters Crime Laboratory in Washington, DC from 1977 through 1979.

2. Experience

Full-time Forensic Document Examiner with the U.S. Postal Inspection Service Southern Region Crime Laboratory from 1980 through 1992.

Private consulting services in Forensic Document Examination since 1990.

Examinations involve handwriting, hand printing, alterations, typewriting, indented writing, counterfeiting, ink & paper analyses, burned document restoration, and mechanical impressions.

3. Courtroom Testimony

Have testified as an expert in Forensic Document Examination over 200 times and have been accepted as an expert every time. Have testified in federal, state and local courts along with military hearings, arbitration hearings and administrative law hearings.

Have testified in Federal District Court in
Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

Have testified in the following state courts:
Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma and Tennessee

4. Certification

Certified through technical testing by the American Board of Forensic Document Examiners (ABFDE) since 1982. The ABFDE is the only certification body that is recognized by all federal government agencies employing Forensic Document Examiners along with many state and municipal law enforcement agencies. The ABFDE is also the only certification board that meets published ASTM standards for required education and training.

Served on the ABFDE Board of Directors 1987 to 1995.

Served as Secretary of the ABFDE Board of Directors 1991 to 1995.

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5. Professional Affiliations

- American Society of Questioned Document Examiners
  Newsletter Editor - 1983 through 1992
  Program Chairman – 1993
  Journal Editorial Staff – 2000 to present
  Regular Member
- American Academy of Forensic Sciences
  Fellow - Questioned Documents Section
- Southeast Association of Forensic Document Examiners
  Program Chairman – 1997, 1998, 2000
  Workshop Facilitator – 1998, 2001
  Regular Member
- Scientific Working Group – Forensic Document Examination
  Main SWGDOC Committee – 1999 to 2001
  Legal Issues Sub-committee Chairman – 1999 to 2001
  Executive Committee – 1999 to 2001
  Working Committee – 2001 to present

6. Published Research Papers

- ***A NON-DESTRUCTIVE PRELIMINARY TEST FOR THE DETERMINATION OF PAGE INSERTION OF A MULTIPAGED QUESTIONED DOCUMENT*** - published in Identification News, Vol. 31, No. 9, September, 1981.
- ***CHECKWRITER IDENTIFICATION - INDIVIDUALITY*** - published in Journal of Forensic Science, Vol. 27, No. 1, January, 1982.
- ***ILLUSIONS OF TRACING*** - published in Journal of Forensic Science, Vol. 27, No.1, January, 1982.
- ***THE EXAMINATION OF NOTARY SEALS*** - published in Journal of Forensic Science, Vol. 27, No. 4, October 1982.
- ***THE FORENSIC VALUE OF RIGHT-HAND JUSTIFICATION*** - published in Forensic Science International, 1990.
- ***FRAUD AND QUESTIONED DOCUMENT EXAMINATION*** - Published in The White Paper, Vol. 7, No. 2, April-May, 1993.
- ***SOLVE THE CROSS WORD PUZZLE*** - Published in Security Management, December, 1994.
- ***DEPOSING FORENSIC EXPERT WITNESSES: AN EXPERT'S VIEWPOINT*** - Published in The Memphis Bar Association Magazine, December, 1995.
- ***HAS THAT DOCUMENT BEEN ALTERED*** - Published in The Florida Defender, Fall, 1998.
- ***THE UNIQUENESS OF HANDWRITING*** - Published in the inaugural edition of the Journal of American Society of Questioned Document Examiners, Vol. 1 No. 1, 1998.
- ***INDENTED WRITING: THE INVISIBLE EVIDENCE*** - Published in The Florida Defender, Fall, 1999.
- ***SELECTING A QUALIFIED FORENSIC DOCUMENT EXAMINER*** - Published in The Florida Defender, Fall, 2001.
- ***CLUES OF INK*** - Published in FSA Times (The Institute of Internal Auditors), Vol. 2, No. 2, 2003.

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9. Teaching Experience

Have conducted lectures and workshops for Tennessee Bureau of Investigation, University of Memphis Law School, University of Central Florida, State Technical Institute at Memphis, Institute of Police Technology & Management's Public Safety Institute Division, Insititute of Internal Auditors, state bar association conventions, district attorneys general convention, banks, insurance investigators, fraud investigators, private investigators, attorneys, law enforcement personnel and other document examiners concerning handwriting specimens, detecting forgeries and alterations and capabilities of Forensic Document Examiners.

Primary trainer for interns in forensic document examination from University of Central Florida.

Course Administrator/Lecturer for National Center for Forensic Sciences post graduate certificate course

Have conducted technical workshops concerning handwriting, signatures, legal issues and checkwriters at various regional and national conferences of forensic document examiners.

HPP 6

AL CASH

SCHILLING MOTORS, INC. PROFIT SHARING PLAN

DESIGNATION OF BENEFICIARY

To: Plan Administrator

I, ALFRED CASH JR. employed by Schilling L/M Union,

pursuant to the provisions of the plan permitting the designation of a beneficiary beneficiaries by a participant, do hereby designate my beneficiary or beneficiaries of my accrued benefit under the plan payable by reason of my death as follows:

	Complete Name and Address	Social Security No.	Relationship to Participant
1.	JUSTIN ALLEN MCLAURIN 4582 Tulane Mphs Tn 38109	410-59-2983	Son
	PRIMARY BENEFICIARY		
2.			
	SECONDARY BENEFICIARY		

I RESERVE THE RIGHT TO REVOKE OR CHANGE ANY BENEFICIARY DESIGNATION. I HEREBY REVOKE ALL PRIOR DESIGNATIONS OF BENEFICIARIES AND SECONDARY BENEFICIARIES.

The Custodian/Trustee shall pay all sums payable under the plan by reason of my death to the primary beneficiary if he or she survives me, and if no primary shall survive me, then to the secondary beneficiary. If no named beneficiary shall survive me, then the Custodian/Trustee shall pay all amounts in accordance with the plan provisions. The Plan Administrator will not accept the Designation of Beneficiary of a married participant designating a primary beneficiary other than the participant's spouse unless the spouse has consented to the designation or unless the participant's accrued benefit is payable in the form of a qualified joint and survivor annuity or qualified preretirement survivor annuity. Spousal consent is not required if the participant's spouse is the sole primary beneficiary.

JAN. 02. 90 — Alfred Cash Jr.

Date — Signature of Participant

Witness — Witness

( ) Married (X) Single

DEPOSITION EXHIBIT